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10/662,683	09/15/2003	Melvin E. Wolfe JR.	28076/SV1094	9788
4743 7590 11/24/2008 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MELVIN E. WOLFE JR,
MARK E. BAER and ALAN R. AYOTTE

Application No. 10/662,683
Technology Center 3700

Mailed: November 24, 2008

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 30, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed December 12, 2007 reveals that claim 11 in the Claims appendix of the Appeal Brief is not in proper format and/or is not consistent as amended in the last entered amendment filed on October 30, 2006. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Specifically, claim 11, as provided in the Brief's Claims Appendix, reads:

11. A method of making an electric motor, comprising:

. . . .

terminating the first magnet wire at the switch; and

severing the first magnet wire between the input terminal and the exit terminal on the fuse.

However, in the last entered Amendment dated October 30, 2005,¹ claim 11 reads:

11. A method of making an electric motor, comprising:

. . . .

connecting an end portion of the first magnet wire directly to the switch; and

severing the first magnet wire between the input terminal and the exit terminal on the fuse.

Appropriate correction of claim 11 provided in the Claims Appendix in proper format is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) to hold the Appeal Brief filed on December 12, 2007 defective;

2) to notify Appellants to file a paper which corrects the “Claims Appendix”;

¹ It is noted that claim 11 was initially amended on May 30, 2006. The Non-Final Rejection mailed July 24, 2006 states that “[a]pplicants’ submission filed on 5/30/06 has been entered.”

- 3) for acknowledgement and consideration of said paper; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ:psb

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